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Clerk of the Board
California Air Resources Board
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RE: Comments on Mandatory Reporting of Greenhouse Gas Emissions – 2nd Proposed 15-Day Modifications

Shell Energy North America (US), L.P. ("Shell Energy") appreciates this opportunity to provide comments on the proposed cap and trade regulation. Shell Energy is an integral part of the Shell Trading network of companies, and a wholly owned subsidiary of Royal Dutch Shell ("Shell"). Shell Energy supports policies that both meet the energy challenge and address climate change in a manner that promotes California's economy. We also support policies that are market based, that subject similar industries to the same standards, and provide a predictable long-term policy framework. We are committed to working with ARB to develop a workable program.

We sincerely appreciate the time and resources that ARB has put into developing this draft mandatory reporting regulation. Despite the progress that has been made, however, there are issues that must be resolved as outlined below.

Changes to the definitions create new disadvantaged parties and should be rejected

In the December Board Resolution approving the cap and trade program, the Modified Regulation Order does not adequately address the issues associated with carbon cost recovery by entities obligated under long-term contracts. Parties have commented that renegotiation is not possible in situations where one party is disadvantaged. There is no incentive for the advantaged party to negotiate. The recently released modifications to the mandatory reporting regulation further exacerbate the issue by creating a new disadvantaged party.

The changed definition of electricity importer provides that "For facilities physically located outside the state of California with the first point of interconnection to a California balancing authority's transmission and distribution system, the importer is the facility operator or scheduling coordinator." Additionally, the definition of a Generation Providing Entity ("GPE") identifies a multiple new entities including those subject to tolling agreements. These definitions disregard the role of a scheduling coordinator ("SC") and impose obligations where none exists.

A SC simply provides a communication service between the facility operator and the California Independent System Operator. It has a contract to perform scheduling and settlement services and is merely a conduit of dollars between the generator and the ISO; the SC does not have a mechanism to recover carbon costs. Only the facility operator should be considered the sole importer for out-of-state facilities that are directly connected to a California balancing area authority. The facility operator performs under an ISO participating generator agreement, and is an ISO dispatchable resource; it should be treated no differently than any other in-state resource.

Recommendation - Modify the definitions as follows:

(87) "Electricity importers" are marketers and retail providers that deliver imported electricity. For electricity delivered between balancing authority areas, the electricity importer is identified on the NERC E-tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path, with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located outside the state of California with the first point of interconnection to a California balancing authority's transmission and distribution system, the importer is the facility operator or GPE ~~or scheduling coordinator~~. Federal and state agencies are subject to the regulatory authority of ARB under this article, and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA) and California Department of Water Resources (DWR).

(182) "Generation providing entity" or "GPE" means a facility located outside the state of California with the first point of interconnection to a California balancing authorities transmission and distribution system. ~~merchant selling energy from owned, affiliated, or contractually bound generation.~~ For purposes of reporting delivered electricity pursuant to section 95111, a GPE is the PSE facility owner or operator, ~~or scheduling coordinator~~ with prevailing rights to claim electricity from a specified source. ~~A facility or generating unit operator, full or partial owner, sole party to a tolling agreement with the owner, or exclusive marketer is recognized by ARB as a generation providing entity.~~

Thank you for this opportunity to comment on the proposed mandatory reporting regulations. If there are any questions, please don't hesitate to contact me.

Sincerely,



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